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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**

10 **IN RE TRANSPACIFIC PASSENGER**
11 **AIR TRANSPORTATION ANTITRUST**
12 **LITIGATION**

Civil Action No. 3:07-CV-05634-CRB

MDL No: 1913

13 **STIPULATION AND ~~PROPOSED~~**
14 **ORDER SETTING FINAL APPROVAL**
15 **HEARING AND SETTING INTERIM**
16 **DEADLINES RE: PRELIMINARY**
17 **APPROVAL OF SETTLEMENTS WITH**
18 **DEFENDANTS PHILIPPINE AIRLINES,**
19 **INC., AIR NEW ZEALAND LIMITED,**
20 **CHINA AIRLINES, LTD., AND EVA**
21 **AIRWAYS CORPORATION**

22 **This Document Relates To:**

23 **All Actions**
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1 WHEREAS, on May 16, 2018 the Court granted preliminary approval to Class Action
 2 Settlements with Settling Defendants Philippine Airlines, Inc. ("PAL"), Air New Zealand Limited
 3 ("ANZ"), China Airlines, Ltd. ("CAL"), and EVA Airways Corporation ("EVA") (collectively,
 4 the "Settling Defendants"), and approved the notice program proposed by Kinsella Media, "on
 5 the condition that the revised short form notice, Wheatman Decl., Ex. 3 (Dkt. 1160-2 at 72 of 88,
 6 be further revised to state, "The detailed notice describes how to exclude yourself or object." See
 7 ECF No. 1161 ("Preliminary Approval Order").

8 WHEREAS, it is necessary and appropriate for the Court to set a schedule to complete
 9 notice, to set objection and opt-out deadlines, and to set a briefing schedule on motions for final
 10 approval and class fees and costs.

11 NOW THEREFORE, subject to approval of the Court, Plaintiffs, PAL, ANZ, CAL, and
 12 EVA, by and through their counsel, hereby stipulate as follows:

13 1. The following Settlement Classes are provisionally certified for settlement purposes
 14 only, pursuant to Rule 23 of the Federal Rules of Civil Procedure:

15 PAL Settlement Class

16 All persons and entities that purchased passenger air transportation originating in the
 17 United States that included at least one flight segment to Asia or Oceania, from
 18 Defendants or their co-conspirators, or any predecessor, subsidiary, or affiliate
 19 thereof, at any time between January 1, 2000 and December 1, 2016.

20 ANZ Settlement Class

21 All persons and entities that purchased passenger air transportation originating in the
 22 United States that included at least one flight segment to Asia or Oceania, from
 23 Defendants or their alleged co-conspirators, or any predecessor, subsidiary, or
 24 affiliate thereof, at any time between January 1, 2000 and December 1, 2016.

25 CAL and EVA Settlement Class

26 All persons and entities that purchased passenger air transportation originating in the
 27 United States that included at least one flight segment to Asia or Oceania, from
 28 Defendants, or any predecessor, subsidiary, or affiliate thereof, at any time between
 January 1, 2000 and December 1, 2016.

1 Excluded from the Settlement Classes are governmental entities, Defendants, former
 2 Defendants, any parent, subsidiary, or affiliate thereof, and Defendants' officers, directors,
 3 employees, and immediate families.

4 2. The Court hereby appoints the Interim Co-Lead Counsel, Cotchett, Pitre &
 5 McCarthy and Hausfeld LLP, to serve as Settlement Class Counsel.

6 3 The Court hereby appoints Plaintiffs Meor Adlin, Franklin Ajaye, Andrew Barton,
 7 Rachel Diller, Scott Fredrick, David Kuo, Dickson Leung, Brendan Maloof, Donald Wortman,
 8 Harley Oda, Roy Onomura, Shinsuke Kobayashi, Patricia Lee, Nancy Kajiyama, Della Ewing
 9 Chow, James Kawaguchi, and Sharon Christian to serve as Class Representatives on behalf of the
 10 Settlement Classes to the extent identified in each of the various Settlement Agreements.

11 4. On or before July 31, 2018, Settlement Class Counsel shall cause the notice to be
 12 published in the manner and in and through the media outlets and other mediums enumerated in
 13 the Notice Program and publication schedules attached as Exhibits to the Declaration of Dr.
 14 Shannon R. Wheatman (ECF No. 1160-2), as amended by the Court in its Preliminary Approval
 15 Order. Settlement Class Counsel shall also provide a copy of the notice to all persons who request
 16 it and shall post a copy of the notice on the internet at the address identified in the notice.
 17 Settlement Class Counsel shall notify Settling Defendants of all class members who elect to opt
 18 out of the settlements or object to the settlements within five business days of the deadline for the
 19 same.

20 5. At least ten (10) days before the date fixed by this Court for the Final Fairness
 21 Hearing, Settlement Class Counsel shall cause to be filed with the Clerk of this Court a
 22 declaration by the person under whose general direction the publication of notice was made,
 23 showing that publication was made in accordance with this Order.

24 6. A hearing (the "Final Fairness Hearing") shall be held by this Court on September
 25 14, 2018 at 10:00 a.m. before the Honorable Charles R. Breyer at the United States District Court
 26 for the Northern District of California, 450 Golden Gate Ave., Courtroom 6, 17th Floor, San
 27 Francisco, California, 94102 to make a final determination as to whether the proposed settlements
 28 are fair, adequate, and reasonable to the Settlement Classes and should be approved by the Court,

1 and whether Settling Defendants should be released from claims as provided in the settlement
2 agreements. The Court may adjourn this Final Fairness Hearing without further notice to
3 members of the Settlement Classes.

4 7. Any member of a Settlement Class may request to be excluded from the Settlement
5 Class; such request of exclusion must be made no later than August 30, 2018, and must otherwise
6 comply with the requirements set forth in the long form notice provided on the website
7 established by Kinsella Media ("Settlement Website"). Any member of a Settlement Class who
8 does not timely seek exclusion from said class and who wishes to object to the terms of the
9 relevant proposed settlement must do so in writing, must mail or deliver copies of such objection
10 to Counsel for the Settling Parties and the Clerk of the Court no later than August 30, 2018, and
11 must otherwise comply with the requirements set forth in the long form notice provided on the
12 Settlement Website.

13 8. In the event that one or more of the proposed settlements are approved by the Court
14 after the Final Fairness Hearing, claims shall be submitted no later than December 31, 2018.

15 9. Settlement Class Counsel shall file with the Court their motion for final approval of
16 the proposed settlement agreements at least fourteen (14) days prior to the date of the Final
17 Fairness Hearing. Settlement Class Counsel shall post a copy of any motion and supporting
18 papers on the Settlement Website within twenty-four hours of filing.

19 10. Settlement Class Counsel shall file any motion concerning the payment of and/or
20 distribution of attorneys' fees, costs, and/or incentive awards thirty-five (35) days prior to the
21 Final Fairness Hearing. Settlement Class Counsel shall post a copy of any motion for attorneys'
22 fees and supporting papers on the website within twenty-four hours after it is filed with the Court.
23 Comments and/or objections to any motion must be made in writing and comply with the
24 requirements set forth in the long form notice posted on the Settlement Website, and must be
25 received by Settlement Class Counsel, and filed with the Court, at least twenty-one (21) days
26 prior to the Final Fairness Hearing. A reply may be filed fourteen (14) days prior to the hearing.

27 11. Settlement Class Counsel are authorized to pay out of the Settlement Fund sums
28 actually invoiced by Kinsella Media/Rust for notice and administration.

1 **SO STIPULATED.**

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3 Dated: May 22, 2018

Respectfully submitted,

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5 /s/ Adam J. Zapala

COTCHETT, PITRE & McCARTHY, LLP

Adam J. Zapala

7 *Interim Co-Lead Counsel for Plaintiffs*

8
9 /s/ Christopher L. Lebsock

HAUSFELD, LLP

Christopher L. Lebsock

11 *Interim Co-Lead Counsel for Plaintiffs*

12
13 Dated: May 22, 2018

By:

/s/ James V. Dick

PILLSBURY WINTHROP SHAW PITTMAN

James V. Dick

15 *Counsel for Defendant China Airlines*

16
17 Dated: May 22, 2018

By:

/s/ Anita F. Stork

COVINGTON & BURLING LLP

Anita F. Stork

19 *Counsel for Defendant Philippine Airlines, Inc.*

20
21
22 Dated: May 22, 2018

By:

/s/ Tammy A. Tsoumas

KIRKLAND & ELLIS LLP

Tammy A. Tsoumas

24 *Counsel for Defendant EVA Airways Corporation*

25
26
27 Dated: May 22, 2018

By:

/s/ Scott D. Cunningham

CONDON FORSYTH LLP

Scott D. Cunningham

Counsel for Defendant Air New Zealand Limited

IT IS SO ORDERED.

Dated: May 23, 2018



HON. CHARLES R. BREYER
United States District Judge